

ORDINANCE

By Bender and Ellison

Amending Title 12, Chapter 244 of the Minneapolis Code of Ordinances relating to Housing: Maintenance Code.

The City Council of the City of Minneapolis do ordain as follows:

Section 1. That Chapter 244 of the Minneapolis Code of Ordinances be amended by adding thereto a new Section 244.2030 to read as follows:

244.2030. Applicant screening criteria for prospective tenants. (a) *Findings and purpose.* As a home rule charter city, Minneapolis has broad authority through its police powers to enact regulation to further the public health, safety, and general welfare:

(1) The City has adopted policies that identify support for renters and ending racial disparities as priorities, including Minneapolis 2040, the Unified Housing Policy, the Renter-First Policy and the Strategic and Racial Equity Action Plan.

(2) The persistent low vacancy rate, increases in rent, and stagnant wages for renters have made it difficult for renters to access safe, affordable housing in Minneapolis.

(3) The vacancy rate in Minneapolis has remained below five (5) percent since 2015 and is even lower for apartment units under one thousand dollars (\$1,000) in monthly rent.

(4) Since 2000, housing costs for renters have increased by seventeen (17) percent, while renter income has increased by only four (4) percent.

(5) Renters comprise the majority of households in Minneapolis, growing by nearly fourteen thousand (14,000) households (a seventeen (17) percent increase) between 2000 and 2017.

(6) Renters are more likely to be low-income than homeowners and households of color are more likely to rent than white households.

(7) Of the more than eighty-nine thousand (89,000) renter households in Minneapolis, nearly fifty thousand (50,000) earned less than sixty (60) percent of Area Median Income in 2016.

(8) Three out of four low income households (earning less than fifty (50) percent of Area Median Income) in Minneapolis are housing cost-burdened, paying more than thirty (30) percent of their income for rent.

(9) As many as one-third (1/3) of adults in the United States has a criminal history.

(10) Access to housing is one of the key factors to prevent recidivism.

(11) Across the country, African Americans and Hispanics are incarcerated at much higher rates than their share of the population.

(12) As of January 2019, African Americans make up thirty-four and one-half (34.5) percent of the Minnesota prison population, while comprising only six and one-half (6.5) percent of the state's population as a whole (as of 2017).

(13) American Indians make up nine (9) percent of the Minnesota prison population, while comprising only one and one-tenth (1.1) percent of the population as a whole (as of 2017).

(14) The U.S. Department of Housing and Urban Development issued guidance in April 2016 regarding the Fair Housing Act and the use of criminal history in tenant screening finding that criminal history based restrictions violate the Fair Housing Act if "without justification, their burden falls more often on renters or other housing market participants of one race or national origin over another."

(15) The U.S. Department of Housing and Urban Development identified individualized assessments as the preferred mechanism for housing providers to fairly screen individuals with criminal history barriers.

(16) A three-year, quantitative analysis by four non-profit Minnesota housing providers examined the impact of criminal history on housing outcomes and found that many criminal offenses have no significant effect on housing outcomes and that the effect of a prior criminal offense on a resident's housing outcome declines over time.

(17) With an eviction on record, it becomes harder to secure safe, stable housing.

(18) Evictions disproportionately affect the lowest income residents in the most racially diverse communities.

(19) A study by the National Fair Housing Alliance found that credit scoring systems have disparate impacts on communities of color.

(20) An Urban Institute Study found that average credit scores in nonwhite areas of Minneapolis are significantly lower than in white areas.

(21) To address the disparate impacts of tenant screening based on eviction and criminal histories, the City should establish appropriate look-back periods for screening rental housing applicants.

(22) To address the disparate impact of tenant screening based on overly restrictive credit histories, the City should establish appropriate conditions around use of credit history.

(b) *Screening criteria.* A landlord may either (i) conduct the individualized assessment required by subdivision (c) below, or (ii) apply screening criteria that take into consideration any supplemental evidence or additional information specific to criminal history submitted by an applicant with their completed application and that do not deny an applicant for any of the following reasons:

(1) Any arrest in an inactive case that did not result in conviction;

(2) Participation in or completion of a diversion or a deferral of judgment program, including stays of adjudication and continuances for dismissal or without prosecution;

(3) Any conviction that has been vacated or expunged, or for which the applicant received a stay of imposition of sentencing and complied with the terms of the stay;

(4) Any conviction for a crime that is no longer illegal in the state of Minnesota;

(5) Any conviction or any other determination or adjudication in the juvenile justice system;

(6) Any conviction for misdemeanor offenses for which the dates of sentencing are older than two (2) years;

(7) Any criminal conviction for felony offenses for which the dates of sentencing are older than five (5) years; however, a landlord may deny an applicant for those same offenses that mandate denial of tenancy in federally assisted housing subject to federal regulations, including but not limited to when any member of the household is subject to a lifetime sex offender registration requirement under a state sex offender registration program and/or convicted of manufacture or production of methamphetamine; additionally, a landlord may deny an applicant for convictions of the following offenses: Arson in the first, second, third or fourth degree(as set out in Minn. Stat. §§ 609.561-609.5631), Racketeer Influenced and Corrupt Organizations(RICO)(as set out in Minn. Stat. §§ 609.901-609.912);

(8) The landlord has a minimum credit score requirement of five hundred (500) or more;

(9) Insufficient credit history, unless the applicant in bad faith withholds credit history information that might otherwise form a basis for denial;

(10) An eviction action pursuant to Minnesota Statutes Chapter 504B if the action:

a. Was dismissed or resulted in a judgment for the applicant before the applicant submits the application;

b. Was settled with no judgment or writ of recovery issued that was entered one (1) or more years before the applicant submits the application; or

c. Resulted in a judgment against the applicant that was entered three (3) or more years before the applicant submits the application;

(11) Insufficient rental history, unless the applicant in bad faith withholds rental history information that might otherwise form a basis for denial.

(c) *Individualized assessment.* A landlord that chooses not to adopt the screening standards set forth in subdivision (b) must conduct and retain for a period of two (2) years a written individualized assessment as follows before denying an applicant based on more restrictive screening criteria. A landlord must consider supplemental evidence and additional information provided by the applicant at the time they submit their completed application to explain, justify, or negate the relevance of potentially negative information revealed by the landlord's screening criteria such as:

(1) Six (6) or more consecutive months of job or income stability;

(2) Completion of secondary education or job training programs;

(3) Current enrollment in secondary education or job training programs;

(4) Six (6) or more consecutive months of positive rental payments within the last year;

(5) Completion of credit counseling; or

(6) Any other evidence that the applicant believes mitigates the significance of the specific barriers identified in an applicant's history.

(d) *Individualized assessment; contents.* The individualized assessment must specifically consider and address the following before denying an applicant based on screening criteria more restrictive than the screening standards in subdivision (b):

(1) The nature and severity of the barriers;

(2) The number and type of the barriers;

(3) The time that has elapsed since the date the barriers occurred; and

(4) The age of the individual at the time the barrier occurred.

(e) *Denials.* If a denial is based on the screening criteria of subdivision (b), a landlord shall notify the applicant within fourteen (14) days of rejecting a rental application and identify the specific criteria the applicant failed to meet. If a denial is based on the completion of an individualized assessment pursuant to subdivision (c), a landlord shall notify the applicant within fourteen (14) days of rejecting a rental application and such notification shall include the following:

(1) The screening criteria that were not met, including detailed information received from a rental reference if it is the basis of the denial;

(2) The supplemental evidence, if any, that the landlord considered and whether it influenced the decision of the landlord to deny the application; and

(3) An explanation of the legitimate, non-discriminatory business interest of the landlord that justified denial of the application.

(f) *Exceptions.* This section 244.2030 does not apply to the following:

(1) Dwelling units subject to a referral agreement between a landlord and a non-profit service provider or government agency working to place vulnerable tenants into housing;

(2) Dwelling units in compliance with local, state, or federal affordable housing loan or funding requirements to the extent that the requirements of this section conflict with provisions of such affordable housing loan or funding requirements.

(g) *Enforcement.* In addition to any other remedy available at equity or law, failure to comply with the provisions of this section 244.2030 may result in criminal prosecution, adverse rental license action,

and/or administrative fines, restrictions, or penalties as provided in Chapter 2 of this Code. A notice of violation, as described in section 244.150, shall not be required in order to establish or enforce a violation of this section.

(h) *Severability.* If any of the parts or provisions of this section or the application thereof to any person or circumstance is held invalid or unconstitutional by a decision of a court of competent jurisdiction, the remainder of this section, including the application of such part or provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this section are severable.

(i) *Effective date.* This section shall become effective XXXX.

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